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IN THE

Supreme Court of the United States

OCTOBER TERM, A. D. 1968

No. 750

COMPLETE AUTO TRANSIT, INC.,

Appellant,

vs.

CHARLES F. CARPENTIER, Secretary of State of the State of Illinois,

Appellee.

ON APPEAL FROM THE SUPREME COURT OF THE STATE OF ILLINOIS.

OBJECTION TO MOTION OF NATIONAL AUTOMOBILE TRANSPORTERS ASSOCIATION TO FILE THEIR BRIEF AS AMICUS CURIAE

Certificate of Service

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Of Counsel.

Printed by Authority of the State of Illinois

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Supreme Court of the United States

OCTOBER TERM, A. D. 1960.

No. 750

COMPLETE AUTO TRANSIT, INC.,

Appellant,

vs.

CHARLES F. CARPENTIER, Secretary of State of the State of Illinois,

Appellee.

ON APPEAL FROM THE SUPREME COURT OF ILLINOIS, EN BANC.

OBJECTION TO MOTION OF NATIONAL AUTOMOBILE TRANSPORTERS ASSOCIATION TO FILE THEIR BRIEF AS AMICUS CURIAE.

Certificate of Service.

Charles F. Carpentier, Secretary of State of Illinois, Appellee, has withheld his consent to the filing of a brief by National Automobile Transporters Association (hereinafter referred to as "Association") as *amicus curiae* in

support of Appellant's jurisdictional statement for the basic reason that only a problem of local State law is involved. A dismissal of the Appeal, or, in the alternative, affirmance of the judgment appealed from, will have no fundamental affect on interstate carriers which the Association purports to represent.

An *alternative* provision for motor vehicle registration, to that involved in this appeal, is available to Appellant and to interstate carriers, represented by the National Automobile Transporters Associations, which are not residents of Illinois but utilize its highways. Section 3-402 B (2) of the Illinois Motor Vehicle Law (Ill. Rev. Stat. 1957, Chap. 95½, Par. 3-402 B (2)) provides for an apportionment" reciprocify privilege, and is as follows:

> "(2) Any motor vehicle, trailer, semi-trailer and pole trailer need not be registered in this State, provided:
>
> (a) same is properly registered in another State pursuant to law or to a reciprocity agreement or declaration; and
>
> (b) that such vehicle is part of a fleet of vehicles owned or operated by the same person who registers such fleet of vehicles pro rata among the various States in which such fleet operates; and
>
> (c) that such vehicle is part of a fleet of vehicles, a portion of which are registered with the Secretary of State of Illinois in accordance with an agreement or arrangement concurred in by the Secretary of State of Illinois based on one or more of the following factors: ratio of miles in Illinois as against total miles in all jurisdictions; situs or base of a vehicle, or where it is principally garaged, or from whence it is prin-

> cipally dispatched or where the movements of such vehicle usually originate; situs of the residence of the owner or operator thereof, or of his principal office or offices, or of his places of business; the routes traversed and whether regular or irregular routes are traversed, and the jurisdictions traversed and served; and such other factors as may be deemed material by the Secretary and the motor vehicle administrators of the other jurisdictions involved in such apportionment;"

Under "apportionment" reciprocity, the interstate carrier need only register a percentage of its motor vehicles with the State of Illinois, based upon the miles traveled in Illinois compared to miles traveled in all other states with respect to such motor vehicles. As previously pointed out in Appellee's Motion to Dismiss This Appeal or to Affirm the Judgment Appealed From, such "apportionment" provisions were specifically placed in the Illinois Statute to afford relief to interstate motor carriers who had been complaining about state taxation of their motor vehicles, based on residence, for the use of the highways of that state. Therefore, the Association's statement that "a fundamental basis for allowing it to file its brief as *amicus curiae* is that its members must of necessity be residents of the several states in which they operate" is obviously not correct, in view of the "apportionment" provision, above quoted.

An insight into the minimal effect of the decision below (which dealt with reciprocity afforded interstate carriers based on the "residence" section of the Illinois Motor Vehicle Law) on interstate carriers is evident from an analysis of statistics relative to the operation of interstate carriers

over Illinois highways under reciprocity based on the "apportionment" section of the Illinois Motor Vehicle Law. As of October 31, 1960, 831 applications for apportionment under Section 3-402 B (2) of the Illinois Motor Vehicle Law were filed with the office of Appellee covering 36,989 motor vehicles. The use of Illinois highways, via "apportionment" privileges, was extended to 30,147 of these motor vehicles which were licensed in other states, while only 6,482 of them were registered (licensed) in Illinois.

Of the 6,842 vehicles registered under "apportionment", only 3,490 vehicles are registered (licensed) in Illinois, pursuant to "apportionment", by companies which are not incorporated in Illinois and do not maintain their principal place of business there. In addition to these 3,490 vehicles, these companies operate 24,588 vehicles, which are not registered in Illinois, and which have been given apportionment privileges in Illinois.

From the above statistics compiled from the records of the office of the Appellee with reference to the alternative "apportionment" reciprocity provision of the Illinois Motor Vehicle Law, the conclusion is inescapable that the construction given by the Illinois Supreme Court to the reciprocity exemptions set out in Section 3-402 B (1) (Ill. Rev. Stat. 1957, Chap. 95½, Par. 3-402 B (1)), the basis of this appeal, is not of such fundamental importance to interstate carriers as to warrant intervention by the Association.

CERTIFICATE OF SERVICE.

I, Raymond S. Sarnow, one of counsel for appellee, and a member of the Bar of the Supreme Court of the United States, hereby certify, that on or before the 30th day of March, 1961, I served copies of the foregoing appellee's "Objection to Motion of National Automobile Transporters Association to File Their Brief as *Amicus Curiae*", as follows: by mailing five copies of said Objection to Larry A. Eskilsen, 501 Perpetual Building, 1111 E. Street, N. W., Washington 4, D. C.; Tweedie Fisher, Bacon Building, Jefferson City, Missouri; Edmund M. Brady, 2280 Penobscot Building, Detroit 26, Michigan; Griffin, Winning, Lindner & Newkirk, 406 First National Bank Building, Springfield, Illinois; and George S. Dixon, 2150 Guardian Building, Detroit 26, Michigan, in duly addressed envelopes, postage prepaid.

RAYMOND S. SARNOW,

One of Counsel for Appellee.

Respectfully submitted,

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